

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

ROBERT G. SANNER, JR., *et al.*,

Plaintiffs,

v.

UNITED STATES OF AMERICA,

Defendant.

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CASE NO. 1:10-CV-2931

OPINION & ORDER
[Resolving Doc. No. [24](#)]

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

In this medical malpractice case, Plaintiff Robert Sanner and his wife move for summary judgment on the issue of liability only, leaving for trial the issues of proximate cause and damages. Plaintiff Sanner alleges, and the Defendant United States does not dispute, that doctors and nurses at the Veteran Affairs Medical Center in Cleveland, Ohio breached the applicable standard of care when they left two surgical sponges inside him after operating on his kidney. [[Doc. 24 at 3](#); [Doc. 30](#).] The Court therefore finds, upon the Plaintiffs' unchallenged evidence, that the Defendant breached the standard of care by failing to remove the sponges and **GRANTS** summary judgment to the Plaintiffs on the issue of liability.

As the parties acknowledge, however, the more complex, fact-dependent issues of proximate cause and damages remain. The Court notes that the parties characterize the remaining issues somewhat differently: Plaintiffs say the sole issue is "what amount of money should go to the

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Plaintiffs”; the Defendant says all that is left to determine is the “nature, extent and amount of damages.” [[Doc. 31 at 2](#); [Doc. 30 at 2](#).] To the extent these portrayals of the remaining issues are different, any difference is in form, not substance. Having already found the Defendant’s conduct negligent, the Court will, at trial, determine what injuries the Defendant’s negligence caused and what damages proximately flow from those injuries.

IT IS SO ORDERED.

Dated: August 17, 2011

s/ *James S. Gwin*
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE